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(12) SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1172

JAMES J. LAUGHLIN,

Petitioner,

vs.

CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE
DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF COLUMBIA,

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA WITH BRIEF IN SUPPORT THEREOF.

JAMES J. LAUGHLIN,

Petitioner,

In Proper Person.

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**PETITION FOR WRIT OF CERTIORARI TO THE
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PORT THEREOF.**

The petitioner prays that writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia entered November 13, 1944, denying petition for writ of mandamus.

Opinion Below

The opinion of the United States Court of Appeals for the District of Columbia has not yet been reported (R. 24).

Jurisdiction

The judgment of the court of appeals was entered on November 13, 1944 (R. 24). The jurisdiction of this Court

is invoked under Section 240(a) of the Judicial Code, as amended by the Act of February 13, 1925. Petition for rehearing was denied December 5, 1944. By order of the Chief Justice of the United States the time for filing petition for writ of certiorari in this Court has been extended to April 17, 1945.

Questions Presented

1. Whether an attorney can be expelled from a criminal trial for filing a petition for the impeachment of a judge.
2. Whether a trial judge can summarily expel an attorney from a criminal trial without affording the attorney the constitutional safeguard of due process of law.
3. Whether the action of a trial judge in expelling an attorney from a criminal trial for filing a petition for impeachment of the judge does not offend the constitutional safeguard of the right of free speech.

Statement

Petitioner is a member of the bar of this Court, the United States Court of Appeals for the District of Columbia, the District Court of the United States for the District of Columbia, the Federal Court for the District of Maryland, the United States Circuit Court of Appeals for the Fourth and Fifth Judicial Circuits and the courts of Indiana (R. 2).

In the court below, James J. Laughlin is named petitioner and Edward C. Eicher is named respondent. On April 6, 1945, the Court of Appeals entered an order substituting the Chief Justice and Associate Justices of the District Court of the United States for the District of Columbia as parties respondent in the place and stead of Edward C. Eicher (R. 40).

Petitioner was engaged to represent two defendants in the case entitled: "*United States of America v. Joseph E. McWilliams, et al.*", Criminal No. 73086. This was the case

commonly referred to as the sedition case. The trial began April 17, 1944, and the Government was still presenting its evidence when the presiding Judge, the late Honorable Edward C. Eicher, died November 30, 1944. A mistrial was declared December 7, 1944. Petitioner had made a thorough study of the indictment in the case and conferred from time to time with various counsel and defendants in the case since the filing of the indictment on January 3, 1944. Petitioner appeared on behalf of defendant Robert Noble and defendant Edward James Smythe and participated in all proceedings up to and including July 5, 1944.

Petitioner says that the case was presided over by the Honorable Edward C. Eicher, then Chief Justice of the District Court of the United States for the District of Columbia. Petitioner says that the conduct of Judge Eicher in the so-called sedition case was of such a nature that he was bringing the courts of the District of Columbia into disfavor and disrepute and was subjecting the good name of the Judiciary in the District of Columbia as well as the good name of the Federal Judiciary as a whole to contempt and ridicule, in that Judge Eicher was so biased and prejudiced against the defendants in the so-called sedition case and was so biased and prejudiced in favor of the prosecution that petitioner considered it his duty in order to protect the good name of the courts of the District of Columbia to file a petition for the impeachment of Judge Eicher with the Speaker of the United States House of Representatives and said petition for impeachment was filed with the Speaker of the United States House of Representatives on July 1, 1944 (R. 10).

Petitioner says that the sedition trial recessed from June 29th to July 5th. On July 5th, Judge Eicher expelled petitioner from further participation in the sedition trial (R. 26). Petitioner took exception to Judge Eicher's order, left the courtroom, returned next day, was expelled, and immediately filed in the United States Court of Appeals

for the District of Columbia a petition for leave to file a petition for writ of mandamus to require Judge Eicher to reinstate him as one of counsel in the trial. By an equal division of the then sitting members, this court denied the writ and later denied a petition for rehearing by an equally divided court (R. 28). Petitioner then moved for leave to file a second petition for writ of mandamus. The court below granted leave to file the petition but denied the petition for the writ with two judges dissenting (R. 35).

Specification of Errors to Be Urged

The Court of Appeals erred:

1. In holding that Judge Eicher was justified in expelling petitioner from the sedition trial.
2. In refusing to grant the writ of mandamus and in upholding the action of Judge Eicher.

Reasons for Granting the Writ

1. We believe that the constitutional questions involved here are important and serious and that no court has a right to penalize a citizen for filing a petition for the impeachment of a public officer.
2. A trial judge cannot summarily expel an attorney from a case without complying with the law relating to suspension or expulsion of members of the bar.
3. The writ of certiorari should be granted due to the fact that the action of Judge Eicher in expelling petitioner violated the right of free speech.

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